

Mar. 19. 2012 3:07PM OLIVE & OLIVE, PA

MAR 19 2012

No. 5908 P. 2

PTO/SB/65 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)  
LAML9002-c

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OFFICE OF PETITIONS

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282

Patent Number: 6,172,144

Application Number: 09/394,251

Issue Date: January 9, 2001

Filing Date: September 13, 1999

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

- ☐ is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_  
original application number \_\_\_\_\_  
original filing date \_\_\_\_\_
- ☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application  
\_\_\_\_\_ filed on \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300

March 19, 2012

/Rebecca E. Crandall/

Date

Signature

Rebecca E. Crandall

Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Mar. 19. 2012 3:08PM OLIVE &amp; OLIVE, PA

MAR 19 2012

No. 5908 P. 3

PTO/SB/65 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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## 1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

## 3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input checked="" type="checkbox"/> \$ 1,425	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 1,425

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700.00 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 700.00

## 5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$ \_\_\_\_\_☒ Please charge Deposit Account No. 15-0490 the sum of \$ 2125☐ Payment by credit card. Form PTO-2038 is attached.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 15-0490

MAR 19 2012

PTO/SB/65 (03-09)

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## 7 OVERPAYMENT

As to any overpayment made, please

☐ Credit to Deposit Account No \_\_\_\_\_

OR

☐ Send refund check

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

## 8 SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

## 9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

/Rebecca E. Crandall/

Signature(s) of Petitioner(s)

March 19, 2012

Date

Rebecca E. Crandall

Typed or printed name(s)

61,568

Registration Number, if applicable

Olive &amp; Olive, P.A.

Address

(919) 683-5514

Telephone Number

P.O. Box 2049, Durham, NC 27702

Address

## ENCLOSURES:



Maintenance Fee Payment



Statement why maintenance fee was not paid timely



Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)



Other

MAR 19 2012

PTO/SB/65 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

/Rebecca E. Crandall/

Signature

March 19, 2012

Date

Rebecca E. Crandall

Type or printed name

61,568

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

Please see attached

(Please attach additional sheets if additional space is needed)

MAR 19 2012

**PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Patentee:</b>	Yekani, Amonollah	<b>Docket No.:</b>	LAML9002
<b>Serial No.:</b>	09/394,251	<b>Filing Date:</b>	September 13, 1999
<b>Patent No.:</b>	6,172,144	<b>Issue Date:</b>	January 9, 2001
<b>Examiner:</b>	Seidleck, James J.	<b>Art Unit:</b>	1711
<b>Customer No.:</b>	029889	<b>Confirmation No.:</b>	3948
<b>For:</b>	Process and composition for producing articles from rice hulls		

\*\*\*\*\*

March 19, 2012 **RECEIVED**

Commissioner for Patents and Trademarks  
Mail Stop: Amendment  
PO Box 1450  
Alexandria, VA 22313-1450

MAR 26 2012

OFFICE OF PETITIONS

**PETITION TO REVIVE UNAVOIDABLY ABANDONED PATENT**

U.S. Patent No. 6,172,144 (the "'144 Patent") was unavoidably abandoned in 2009. Patentee hereby requests revival of the '144 Patent.

**A. Statement of Facts**

The '144 Patent issued on January 9, 2001.

At the time of issuance, Patentee was represented by the Mills Law Firm, PLLC, whose principal was patent attorney John G. Mills, III. Thereafter, in 2007, Mr. Mills retired from the practice of law and closed his firm. (See Decl. Mark Ishman ¶ 3 (Ex. 1); Decl. Stefanie Hansen ¶ 3 (Ex. 2); Decl. Peter Sachtjen ¶ 2 (Ex. 3).) On January 19, 2007, the North Carolina State Bar granted Mr. Mills' petition for inactive status, as a result of which he became ineligible to practice law in North Carolina. (Ex. 4.)

While Mr. Mills maintained his patent practice, Mr. Mills maintained a docket report for his active files, and sent reminders to his clients of their upcoming deadlines. (Decl. Peter Sachtjen ¶ 3.)

In 2004, Patentee received a reminder from the Mills Law Firm that a maintenance fee was due in order to keep the '144 patent alive. After receiving that reminder, Patentee paid the maintenance fee on October 27, 2004. (Decl. Amonollah Yekani ¶ 7 (Ex. 5).)

Patentee had been informed that future maintenance fees would be due. Patentee had in place what he believed was an adequate reminder system. Patentee entered the date on what was intended to be a permanent computerized calendar but due to computer failure and upgrades, the docketed reminder became lost despite Patentee's efforts. Patentee knew that Mr. Mills had reminded him of the first deadline and assumed that future reminders would likewise be provided to him so long as he did not change the correspondence address for the '144 patent. Patentee believed that Mr. Mills would continue to represent him in that he understood that the Patent Office would send reminders of any future deadlines to Mr. Mills, and Mr. Mills would forward such reminders to him. (Decl. Amonollah Yekani ¶¶ 4-7.)

The second maintenance fee for the patent was due on or before January 9, 2009. At the time the second maintenance fee became due, Mr. Mills had retired from the practice of law and had been granted inactive status by the North Carolina bar as aforesaid.

Patentee was not, at that time, aware that Mr. Mills had retired from the practice of law. Patentee had not, in consequence, retained any other practitioner to replace Mr. Mills as his patent counsel nor requested any new counsel to send reminders to Patentee concerning the deadlines. (Decl. Amonollah Yekani ¶ 10.)

At the time of his retirement, Mr. Mills made arrangements for the Law Office of Mark W. Ishman, P.C. to receive documents from the Patent Office pertaining to his clients so that the Ishman firm could take steps, if necessary, to handle his former clients' needs. The Ishman firm employed Peter Sachtjen, a patent agent who formerly was associated with Mr. Mills, to service such clients' patent needs. Mr. Mills also provided to the Ishman firm the files of his active clients, with information concerning future docket needs of such clients. (Decl. Mark Ishman ¶ 4; Decl. Stefanie Hansen, ¶ 5; Decl. Peter Sachtjen ¶¶ 2-3.)

The Ishman firm did receive a patent file pertaining to the '144 patent. However, that file was marked with a notation that Patentee had directly paid the first maintenance fee, without law firm involvement in making the payment and that future reminders should not be sent. Thus, the Ishman firm did not know that Patentee continued to rely upon receipt of reminders from counsel for any future deadlines pertaining to the '144 Patent and had no instructions to docket the deadline or provide reminders to Patentee. (Decl. Mark Ishman ¶ 5; Decl. Stefanie Hansen, ¶ 6; Decl. Peter Sachtjen ¶¶ 5-6.)

The Ishman firm would nonetheless have immediately transmitted to Patentee any notice that it received from the Patent Office pertaining to the '144 patent. The Ishman firm did not, however, receive any notice transmitted by the Patent Office pertaining to the patent prior to the maintenance fee deadline, nor any notice that the maintenance fee had not been paid or that the '144 Patent had expired. (Decl. Mark Ishman ¶ 6; Decl. Stefanie Hansen ¶ 7; Decl. Peter Sachtjen ¶ 7.) The Patent Office's transaction history pertaining to the '144 Patent is consistent with the absence of notice, as it shows no transmittal of any notices to anyone concerning the patent status. (Ex. 6.)

The Ishman firm accordingly provided no reminder to Patentee concerning the maintenance fee deadline, the fact that the maintenance fee had not been paid, or the patent expiration. (Decl. Mark Ishman ¶ 7; Stefanie Hansen ¶ 8; Decl. Peter Sachtjen ¶ 8.)

Because of these circumstances that were outside its control, Patentee did not receive any reminder of the deadline for paying the second maintenance fee required to maintain the patent. Further, Patentee did not receive a notice from the Patent Office or any other source concerning the lapse of the '144 Patent resulting from nonpayment of the maintenance fee. (Decl. Amonollah Yekani ¶ 9.)

As a result, neither Patentee nor any counsel for Patentee were aware of the upcoming deadline, or that the deadline had passed without payment and that the patent had lapsed; and neither Patentee nor any counsel for Patentee paid the maintenance fee or filed any petition for reinstatement of the '144 patent within two years following the final deadline to make the second maintenance fee payment.

On or about September 15, 2011, Patentee discovered that the '144 patent had become abandoned when Patentee checked the status of his patent after speaking with a couple of investors regarding his invention. When Patentee checked the patent number at the USPTO website, he discovered that his patent had expired. Promptly thereafter, Patentee began seeking counsel to reinstate the patent. Learning that Mr. Mills had retired, Patentee approached Peter Sachtjen, who then was practicing with the Ishman firm, and asked for his assistance in reinstating the patent. (Decl. Amonollah Yekani ¶¶ 11-14; Decl. Peter Sachtjen ¶ 9.)

On November 9, 2011, Mr. Sachtjen filed a petition to revive the '144 Patent. Mr. Sachtjen is himself not young and has been experiencing health issues. In his rush to ensure that a petition for reinstatement was promptly filed, he did not appreciate that, due to the length of time since expiration of the patent, the petition should have been filed on the basis of unavoidable abandonment rather than unintentional abandonment. (Decl. Mark Ishman ¶ 10; Decl. Peter Sachtjen ¶ 10.)

On January 17, 2012, the Patent Office dismissed the petition for reinstatement because it was filed on the wrong basis, but indicated that a properly grounded petition could be filed.

During the interim between November 9, 2011 and January 17, 2012, Mr. Sachtjen's health issues continued and escalated, leaving him unable to promptly take all steps necessary to seek revival of the patent. Consequently, upon receipt of the dismissal, the Ishman firm was required to locate and associate other counsel to assist Patentee in filing a new petition, properly grounded in the facts. (Decl. Mark Ishman ¶ 10; Decl. Peter Sachtjen ¶ 11.) The undersigned firm of Olive & Olive, P.A. was associated for that purpose and has been working diligently to identify the facts and obtain the necessary supporting declarations. (Decl. Mark Ishman ¶ 11.)

#### **B. Remarks**

Patentee requests that the Patent Office revive the '144 Patent and accept its unavoidably delayed payment. The U.S. Patent Act allows the Director of the Patent Office to accept payment of any maintenance fee at any time after the six-month grace period "if the delay is shown to the satisfaction of the Director to have been unavoidable." 35 USC § 41(b).

In this instance, Patentee acted in a timely and reasonable fashion to ensure the continued enforceability of the '144 Patent. Patentee timely paid the first maintenance fee in 2004 after having been reminded by patent counsel to do so. Patentee had created what Patentee reasonably believed was an appropriate dual-reminder system to ensure that deadlines were not missed, including both an internal calendar reminder and an association with patent counsel. Patentee's system demonstrably worked, as evidenced by timely payment of the first maintenance fee.

Unfortunately, a concatenation of events that Patentee could not reasonably have anticipated prevented the system from working when it came time to pay the second maintenance fee. Patentee's internal reminder had been lost as a result of computer failure. The backup system of reminders from patent counsel also failed. Patentee could not reasonably have anticipated that his attorney would retire and that even though his attorney had attempted to ensure ongoing assistance for all clients, Patentee's own file was marked in a manner that resulted in an absence of future reminders.

Upon learning of the abandonment of the '144 Patent, Patentee took prompt steps to obtain reinstatement. Patentee immediately located and contacted patent counsel and requested assistance in reviving the Patent. Peter Sachjen promptly filed a petition to revive the patent, although unfortunately reciting the wrong basis for the petition (which Patentee had no reason to know). Until the Ishman firm and Patentee received the Patent Office's dismissal of the petition to revive, they believed no further action would be necessary. Immediately upon learning that a factual petition based upon unavoidable delay would be necessary, they immediately took steps to create and file such a petition, which is presented herein.

Accordingly, the entire delay in submitting the maintenance fee was unavoidable and has been rectified as promptly as is reasonably possible.

**C. Conclusion**

Patentee respectfully submits that, having demonstrated the unavoidability of the delay in paying the maintenance fee, the '144 Patent be reinstated and the maintenance fee be accepted.

If the Patent Office requires further support or believes a further telephone conference with undersigned counsel would expedite or conclude this matter, the Examiner is cordially invited to contact undersigned counsel by telephone at the below-listed number.

Charging of the maintenance fee and surcharge to a credit card is authorized on the petition and credit card forms submitted herewith.

Respectfully submitted,  
/Rebecca E. Crandall/  
Rebecca E. Crandall  
Reg. No. 61,568  
**Olive & Olive, P.A.**  
Customer No. 029889  
Attorneys for Applicant  
500 Memorial Street  
PO Box 2049  
Durham, North Carolina 27702-2049  
(919) 683-5514

**Certificate of Facsimile Transmission**

I hereby certify that this correspondence is being transmitted by facsimile on March 19, 2012, to the United States Patent and Trademark Office at (571) 273-8300.

/Rebecca E. Crandall/  
Rebecca E. Crandall



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MAR 19 2012

No.5908 P. 10

**PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Patentee:</b>	Yekani, Amonollah	<b>Docket No.:</b>	LAML9002
<b>Serial No.:</b>	09/394,251	<b>Filing Date:</b>	September 13, 1999
<b>Patent No.:</b>	6,172,144	<b>Issue Date:</b>	January 9, 2001
<b>Examiner:</b>	Seidleck, James J.	<b>Art Unit:</b>	1711
<b>Customer No.:</b>	029889	<b>Confirmation No.:</b>	3948
<b>For:</b>	Process and composition for producing articles from rice hulls		

\*\*\*\*\*

March 19, 2012

Commissioner for Patents and Trademarks  
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Alexandria, VA 22313-1450

**PETITION TO REVIVE UNAVOIDABLY ABANDONED PATENT**

**Exhibit 1:  
Declaration of Mark Ishman**

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**PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Patentee:</b>	Yekani, Amonollah	<b>Docket No.:</b>	LAML9002
<b>Serial No.:</b>	09/394,251	<b>Filing Date:</b>	September 13, 1999
<b>Patent No.:</b>	6,172,144	<b>Issue Date:</b>	January 9, 2001
<b>Examiner:</b>	Seidleck, James J.	<b>Art Unit:</b>	1711
<b>Customer No.:</b>	029889	<b>Confirmation No.:</b>	3948
<b>For:</b>	Process and composition for producing articles from rice hulls		

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**DECLARATION OF MARK ISHMAN**

1. I, Mark Ishman, am over the age of 18 and competent to make this declaration. I make this declaration based on personal knowledge.

2. I am the owner of the Law Office of Mark W. Ishman, P.C.

3. In 2007, I began working with John G. Mills, III, owner of the Mills Law Firm, PLLC, to assist with his former clients when he retired from the practice of law and closed his firm. He had worked with Peter Sachtjen, a patent agent, on certain matters, and I continued to work with Mr. Sachtjen on a contract basis.

4. At the time of Mr. Mills' retirement, he had made arrangements for my firm to receive any documents from the Patent Office that were transmitted to him pertaining to his clients. This was so that my firm could take steps, if necessary, to handle his former clients' needs.

5. Among the files my firm received from Mr. Mills' firm was a file pertaining to U.S. Patent No. 6,172,144 (the '144 Patent). The file contains a note that Mr. Mills' client, Mr. Yekani, paid the first maintenance fee on his own and that he would not need future reminders. Accordingly, the firm was unaware that Mr. Yekani intended to rely on receiving a reminder from Mr. Mills' firm, and we had no instructions to docket any deadlines or provide reminders relating to the Patent.

6. Had any communications been sent from the Patent Office relating to the '144 Patent, my office should have received those communications and we would have forwarded such reminders to Mr. Yekani. We did not, however, receive any notices sent from the Patent Office regarding the deadline to pay maintenance fee, that the deadline had passed without payment, or that the Patent had become abandoned.

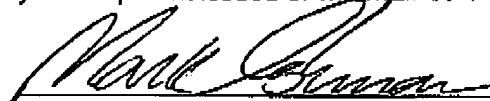
7. The second maintenance fee for the '144 Patent was due January 9, 2009. Since we had no instructions to send a reminder and we received nothing from the Patent Office, we did not remind Mr. Yekani of the deadlines associated with the second maintenance fee.

8. After learning that the '144 Patent had been abandoned in September 2011 and discovering that his former patent attorney had retired, Mr. Yekani approached Mr. Sachtjen, who then was associated with my firm, for assistance in reviving it.

9. In November 2011, Mr. Sachtjen filed a petition for reinstatement of the '144 Patent. Unfortunately, he filed the petition on the wrong basis, claiming unintentional abandonment rather than unavoidable abandonment. As I am not myself a patent attorney, I did not realize his error until the Patent Office rejected the petition in January and we received notice of the rejection.

10. Mr. Sachtjen is not a young man and has been ill, with escalating health issues. When the Patent Office rejected the petition regarding the '144 Patent in January 2012, Mr. Sachtjen was unable to promptly take all steps necessary to seek revival of the patent. As a result, my firm rapidly obtained the assistance of Olive & Olive, P.A., to handle this matter. We have worked together diligently to identify the facts surrounding this abandonment and obtain the necessary supporting declarations.

11. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the patent issued or maintained thereon.

  
Mark Ishman

Executed in Raleigh, North Carolina on 3-8-2012

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No.5908 P. 13

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**PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Patentee:</b>	Yekani, Amonollah	<b>Docket No.:</b>	LAML9002
<b>Serial No.:</b>	09/394,251	<b>Filing Date:</b>	September 13, 1999
<b>Patent No.:</b>	6,172,144	<b>Issue Date:</b>	January 9, 2001
<b>Examiner:</b>	Seidleck, James J.	<b>Art Unit:</b>	1711
<b>Customer No.:</b>	029889	<b>Confirmation No.:</b>	3948
<b>For:</b>	Process and composition for producing articles from rice hulls		

\*\*\*\*\*

March 19, 2012

Commissioner for Patents and Trademarks  
Mail Stop: Amendment  
PO Box 1450  
Alexandria, VA 22313-1450

**PETITION TO REVIVE UNAVOIDABLY ABANDONED PATENT**

**Exhibit 2:  
Declaration of Stefanie Hansen**

MAR 19 2012

PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 26 2012

Patentee:	Yekani, Amonollah	Docket No.:	LAML9002
Serial No.:	09/394,251	Filing Date:	September 13, 1999
Patent No.:	6,172,144	Issue Date:	January 9, 2001
Examiner:	Seidleck, James J.	Art Unit:	1711
Customer No.:	029889	Confirmation No.:	3948
For:	Process and composition for producing articles from rice hulls		

## DECLARATION OF STEFANIE HANSEN

1. I, Stefanie Hansen, am over the age of 18 and competent to make this declaration. I make this declaration based on personal knowledge.

2. I am a paralegal at the Law Office of Mark W. Ishman, P.C., and have worked here since 2007. I have 15 years' experience as a paralegal and have 12 years' experience as a patent paralegal. My paralegal training was provided through in-office training programs while under the direct supervision of licensed attorneys and registered practitioners in Wisconsin. I have been trained to docket patent matters, to assist with patent filings, and to generally administer patent matters under the supervision of a registered practitioner. I am aware of the critical nature of patent deadlines and the importance of providing Patent Office notices, if and when received, to the pertinent clients.

3. Beginning in 2007, the Ishman Firm began assisting Mills Law Firm, PLLC clientele with their intellectual property needs because Mr. John Mills had retired from the practice of law.

4. Mr. Mills had worked on certain matters with Peter Sachtlein, who was registered to practice before the Patent Office, and the Ishman firm also became acquainted with and then worked with Mr. Sachtlein on certain matters.

5. I was aware that at the time of Mr. Mills' retirement, he had made arrangements for the Ishman firm to receive documents from the Patent Office pertaining to his clients, so that the Ishman firm could take steps, if necessary, to handle Mr. Mills' former clients' needs. Mr. Mills also provided certain of his client files to the Ishman firm.

6. Among the files the Ishman firm received from Mr. Mills' firm was a file pertaining to U.S. Patent No. 6,172,144 (the '144 Patent). The file contains a note that the client, Mr. Yekani, paid the first maintenance fee on his own and that he would not need future reminders. Accordingly, we were unaware that Mr. Yekani intended to rely on receiving a reminder from Mr. Mills' firm, and we had no instructions to docket any deadlines or provide reminders relating to the Patent.

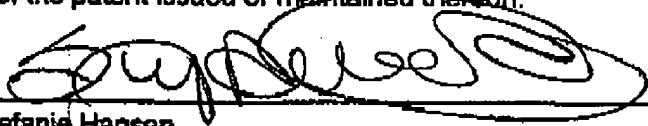
7. Had we received any communications from the Patent Office relating to the '144 Patent, I would have seen them in the normal course of our practice, and we would have forwarded such reminders to Mr. Yekani. We did not, however, receive notice from the Patent Office regarding the deadline to pay maintenance fee, that the deadline had passed without payment, or that the Patent had become abandoned. I was confident that we did not receive

any reminders, but I also have double-checked the file pertaining to the '144 patent, which is where any received communications would have been filed, and confirmed that none had been received and filed in that location.

8. I also checked the online record pertaining to the '144 Patent, and see that it is consistent with our own files, showing no transmission of any communication concerning the '144 Patent during the entire time from 2007, when the Ishman firm received the file, until Mr. Sachtjen filed a petition to accept late payment of the maintenance fee.

9. The second maintenance fee for the '144 Patent was due January 9, 2009. Since we had no instructions to send a reminder and we received nothing from the Patent Office, we did not remind Mr. Yekani of the deadlines associated with the second maintenance fee.

10. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the patent issued or maintained thereon.

  
Stefanie Hansen

Executed in Raleigh, North Carolina on 3-15-12

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**PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Patentee:</b>	Yekani, Amonollah	<b>Docket No.:</b>	LAML9002
<b>Serial No.:</b>	09/394,251	<b>Filing Date:</b>	September 13, 1999
<b>Patent No.:</b>	6,172,144	<b>Issue Date:</b>	January 9, 2001
<b>Examiner:</b>	Seidleck, James J.	<b>Art Unit:</b>	1711
<b>Customer No.:</b>	029889	<b>Confirmation No.:</b>	3948
<b>For:</b>	Process and composition for producing articles from rice hulls		

\*\*\*\*\*

March 19, 2012

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Alexandria, VA 22313-1450

**PETITION TO REVIVE UNAVOIDABLY ABANDONED PATENT**

**Exhibit 3:  
Declaration of Peter Sachtjen**

MAR 19 2012

**PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Patentee:</b>	Yekani, Amonollah	<b>Docket No.:</b>	LAML9002
<b>Serial No.:</b>	09/394,251	<b>Filing Date:</b>	September 13, 1999
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**DECLARATION OF PETER SACTJEN**

1. I, Peter Sachtjen, am over the age of 18 and competent to make this declaration. I make this declaration based on personal knowledge.

2. I am registered to practice before the United States Patent Office and worked as a corporate patent attorney for many years before retiring. Then, from approximately 2000 until approximately 2007, I worked as a patent attorney and agent for the Mills Law Firm, PLLC. After Mr. Mills retired from the practice of law in 2007, I continued to work in the patent field on a contract basis for the Law Office of Mark W. Ishman, PC., preparing and prosecuting patent applications for clients of the Ishman firm.

3. I am knowledgeable of the maintenance fee practices at both the Mills Firm and the Ishman Law Firm during the time I worked in association with those firms. Both Mr. Mills and the Ishman Law Firm maintained a docket on which they listed the upcoming deadlines in cases they had been retained to handle. When those upcoming deadlines were maintenance fee deadlines, both firms routinely sent reminder letters to clients regarding the deadlines for payment of such fees. In addition, both firms routinely reminded clients of at least the first maintenance fee deadline respecting patents that the firm had handled.

4. The above-listed U.S. Patent 6,172,144 was obtained by the Mills Firm in 2001.

5. I am aware that upon the retirement of Mr. Mills, the patent file pertaining to the above-listed patent was transferred by Mr. Mills to the Ishman Law Firm, along with other files pertaining to other clients of his firm.

6. I also am aware that the file pertaining to the above-listed patent that was provided to the Ishman Law Firm was marked with a notation that the patentee had directly paid the first maintenance fee, without law firm involvement in making the payment and that future reminders should not be sent. Thus, neither I nor the Ishman Law Firm knew that the patentee continued to rely upon receipt of reminders from counsel for any future deadlines pertaining to the '144 Patent and neither I nor the Ishman Firm had instructions to docket the deadline or provide reminders to the patentee.



7. The second maintenance fee for the '144 Patent was due on January 9, 2009. I do not recall receiving any notice from the Patent Office pertaining to the patent prior to the maintenance fee deadline or after that deadline. In addition, a review of the file reflects that the Ishman Law Firm did not receive any notice transmitted by the Patent Office pertaining to the patent prior to the maintenance fee deadline, nor any notice that the maintenance fee had not been paid or that the '144 Patent had expired.

8. Had I or the Ishman Law Firm received any notices from the Patent Office regarding the '144 Patent, we would have forwarded them to the patentee. Since we did not receive anything from the Patent Office and our docket did not reflect the deadlines, I did not provide the patentee with any reminders of the fees or notice regarding the abandonment of the Patent and I do not believe the Ishman Law Firm did so.

9. In or about early November 2011, Mr. Yekani communicated to me that the patent had lapsed and asked for assistance in reinstating the '114 patent. It was my understanding at the time that although he had attempted to move quickly to correct the error, there already had been some delay associated with his locating counsel. I was aware that time is of the essence in petitioning for revival and therefore, although I was ill at the time and was at home, I rapidly initiated the filing of a petition to revive.

10. I prepared the petition to revive on November 9, 2011 and it was received in the Patent Office on November 15, 2011. The petition was filed on the basis of unintentional abandonment due to unintentional failure to pay the maintenance fee, which in my opinion was justified by the facts, as Mr. Yekani had always, as far as I was aware, intended to keep the '144 patent in force. In my rush to ensure that a petition for reinstatement was promptly filed, and with my health issues affecting me as well, I apparently did not correctly calculate the delay in time since abandonment and did not at the time appreciate that the delay in payment had been greater than two years, so that the petition should have been filed on the basis of unavoidable abandonment rather than unintentional abandonment.

11. I learned of the error when the petition was dismissed. I informed the Ishman Law Firm that the patentee desired to keep his patent in force, and that steps to revive it should be taken. Unfortunately, my health issues, which had continued and escalated since November 9, prevented me from taking all such steps as are necessary to effect the revival and the Ishman firm obtained other counsel to assist it in filing the instant petition based upon unavoidable delay.

12. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the patent issued or maintained thereon.



Peter Sachjen

Executed in Greenville, North Carolina on March 9, 2012

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**PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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<b>Patentee:</b>	Yekani, Amonollah	<b>Docket No.:</b>	LAML9002
<b>Serial No.:</b>	09/394,251	<b>Filing Date:</b>	September 13, 1999
<b>Patent No.:</b>	6,172,144	<b>Issue Date:</b>	January 9, 2001
<b>Examiner:</b>	Seidleck, James J.	<b>Art Unit:</b>	1711
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**PETITION TO REVIVE UNAVOIDABLY ABANDONED PATENT**

**Exhibit 4:**

**Printout from North Carolina State Bar's website showing status of  
John G Mills III's license to practice law**



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**PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Patentee:</b>	Yekani, Amonollah	<b>Docket No.:</b>	LAML9002
<b>Serial No.:</b>	09/394,251	<b>Filing Date:</b>	September 13, 1999
<b>Patent No.:</b>	6,172,144	<b>Issue Date:</b>	January 9, 2001
<b>Examiner:</b>	Seidleck, James J	<b>Art Unit:</b>	1711
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<b>For:</b>	Process and composition for producing articles from rice hulls		

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**PETITION TO REVIVE UNAVOIDABLY ABANDONED PATENT**

**Exhibit 5:  
Declaration of Amonollah Yekani**

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PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Patentee:	Yekani, Amonollah	Docket No.:	LAML9002
Serial No.:	09/394,251	Filing Date:	September 13, 1999
Patent No.:	6,172,144	Issue Date:	January 9, 2001
Examiner:	Seidleck, James J.	Art Unit:	1711
Customer No.:	029889	Confirmation No.:	3948
For:	Process and composition for producing articles from rice hulls		

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## DECLARATION OF AMONALLAH YEKANI

1. I, Amonallah Yekani, am over the age of 18 and competent to make this declaration. I make this declaration based on personal knowledge.
2. I am the applicant and owner of U.S. Patent No. 6,172,144 (the '144 Patent).
3. I worked with the Mills Law Firm, PLLC, to obtain the '144 Patent, which issued in January 2001.
4. The Mills Law Firm informed me that future maintenance fees would be due. I entered the maintenance fee dates on what was intended to be a permanent computerized calendar so that I would not forget to pay them.
5. The first maintenance fee for the '144 Patent was due in 2004. The Mills Law Firm reminded me of this deadline, and I paid the fee on or about October 27, 2004. Although that was more than seven years ago and I have no written record at this point, I believe that my computerized reminder system also reminded me of the deadline and believe that had it not done so, I would have noticed the omission and taken steps to remediate the situation.
6. Prior to the second maintenance fee deadline, I experienced computer failure and upgrades, and my computerized reminders became lost despite my best efforts to retain all critical data from my computer and my belief that I had done so. I was not aware that my reminders had been lost and that I would not be reminded by my computerized system.

7. I believed that I could also rely on the Mills Law Firm to remind me of the deadline. Mr. Mills had reminded me of the first deadline, so I assumed that future reminders would likewise be provided as long as I did not change the correspondence address for the '144 Patent. I thought that Mr. Mills would continue to represent me as a matter of record with the Patent Office so that the Patent Office would send reminders of any future deadlines to Mr. Mills, and Mr. Mills would forward such reminders to me.

8. The second maintenance fee for the '144 Patent was apparently due January 9, 2009.

9. I did not receive any reminders that the second maintenance fee was due from any source—not from my own internal computer reminder system that I had established, or from the Patent Office, or from Mr. Mills' firm, or from anyone else. I also did not receive any notice from any source that the maintenance fee had not been paid or that the patent had expired due to nonpayment.

10. I was not aware that Mr. Mills had retired from the practice of law after I had paid the first maintenance fee for the '144 Patent. Because I did not know this, I had not retained another patent attorney or patent agent to replace Mr. Mills in monitoring the deadlines for the '144 Patent.

11. On or about September 15, 2011, I learned for the first time that the second maintenance fee had not been paid when due, and that the '144 Patent had become abandoned. I learned this when, after speaking with a couple of prospective investors who were interested in my invention, I went to the Patent Office website and pulled up the status of my patent using its patent number. My patent was listed as expired.

12. After discovering that my '144 Patent had expired, I attempted to contact the Mills Law Firm for assistance in reinstating the Patent. I learned to my surprise that Mr. Mills had retired.

13. Finding that Mr. Mills had retired, I was very concerned about what to do and who could help me.

14. I approached Peter Sachtjen, who had worked with Mr. Mills, and asked for his assistance in reinstating the patent. Mr. Sachtjen had become associated with the Law Office of Mark W. Ishman, P.C.

15. Mr. Sachtjen then filed a petition for reinstatement on my behalf, promptly after I talked with him.

16. In January 2012, I learned that the petition for reinstatement had been denied. I tried to speak with Mr. Sachtjen, but did not receive a response and understand that he was ill. I contacted the Ishman law firm and talked with Mark Ishman, who assured me that his firm would take steps to have someone else try to reinstate my patent.

17. Throughout all of this time, I have not delayed in taking any action that I knew was required, and have tried to be aware of all deadlines. I have tried diligently to get and keep my Patent and I have never wanted it to expire.

18. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the patent issued or maintained thereon.

  
\_\_\_\_\_  
Amonallah Yekani

Executed in North Carolina on March 19, 2012

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**PATENT  
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<b>Patentee:</b>	Yekani, Amonollah	<b>Docket No.:</b>	LAML9002
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**PETITION TO REVIVE UNAVOIDABLY ABANDONED PATENT**

**Exhibit 6:  
Transaction History for Subject Patent**





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09/394,251

PROCESS AND COMPOSITION FOR PRODUCING  
ARTICLES FROM RICE HULLS

P-4728



Select New Case	Application Data	Transaction History	Fees	Published Documents	Address & Attorney/Agent
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## Transaction History

Date	Transaction Description
01-17-2012	Mail-Petition Decision - Accept Late Payment of Maintenance Fees - Dismissed
01-17-2012	Petition Decision - Accept Late Payment of Maintenance Fees - Dismissed
11-15-2011	Petition to Accept Late Payment of Maintenance Fee Payment Filed
02-09-2009	Expire Patent
10-10-2000	Workflow - File Sent to Contractor
01-09-2001	Recordation of Patent Grant Mailed
12-21-2000	Issue Notification Mailed
12-10-2000	Application Is Considered Ready for Issue
08-22-2000	Issue Fee Payment Verified
12-05-2000	Workflow - Complete WF Records for Drawings
08-25-2000	Workflow - Drawings Finished
08-25-2000	Workflow - Drawings Matched with File at Contractor
11-08-2000	Workflow - Drawings Received at Contractor
08-25-2000	Workflow - Drawings Received at Contractor
08-25-2000	Workflow - Drawings Sent to Contractor
08-03-2000	Mail Notice of Allowance
08-03-2000	Notice of Allowance Data Verification Completed
07-27-2000	Preliminary Amendment
05-03-2000	Case Docketed to Examiner in GAU
04-27-2000	Transfer Inquiry
10-12-1999	Application Dispatched from OIPE
09-30-1999	IFW Scan & PACR Auto Security Review
09-17-1999	Initial Exam Team nn

## If you need help:

- Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail [EBC@uspto.gov](mailto:EBC@uspto.gov) for specific questions about Patent Application Information Retrieval (PAIR).
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